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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,551	01/05/2004	Tal Cohen	FOM-140.01	2397
25181	7590	06/02/2005	EXAMINER	
FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD BOSTON, MA 02110			SHRIVASTAV, BRIJ B	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/751,551

Applicant(s)

COHEN ET AL. 

Examiner

Brij B. Shrivastav

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-15 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 16, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 6-11, 17 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Commens et al (US 6396274), and further in view of Smith et al (US 5,122,745).

As regards to claim 1, Commens et al a nuclear magnetic resonance probe (figures 1 and 2, numeral 20; column 4, lines 13-52), including a conduit to provide a sample (figure 1, where acquisition system is connected to the probe 20 for fluid exchange, figure 2, numeral 72 and 74). Further, Commens et al teach a measurement region in fluid communication with the conduit (figure 2, numeral 24). However, Commens et al do not teach at least one restriction element to at least partially restrict flow of the sample from the measurement region in at least one flow direction. Smith et al teach at least one restriction element to at least partially restrict flow of the sample from the measurement region in at least one flow direction (figures 1 and 2, numeral 34 and 40; column 4, lines 41-68). It would have been obvious to one of ordinary skill in the art to adapt teaching of Smith et al with the teaching of Commens to make NMR probe more versatile for stop-flow measurements.

As regards to claims 4 and 5, Commens et al further teach limitations of these claims (figure 2).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al (US 5,122,745).

As regards to claim 16, Smith et al teach a nuclear magnetic resonance probe (column 2 and 3, lines 65-68 and 1-46), including a measurement region to contain a sample (figures 1, 2, numeral 20), and at least one means for controlling flow of the sample from the measurement region during measurement of the sample ( figure 2, numeral 34 and 40; column 4, lines 41-65).

As regards to claims 18 and 19, Smith et al further teach the limitations of these claims (figures 1 and 2).

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance:

3. Claims 12-15 are allowed, as the prior art of record does not teach or suggest a nuclear magnetic resonance probe, including at least one valve disposed between the measurement region and the conduit to control a flow of the sample between the measurement region and the conduit, in combination with the remaining limitations of the claims.

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4. Claims 2, 3, 6-11, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

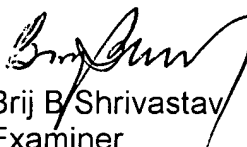
5. Applicant is advised to submit formal figure drawings.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brij B. Shrivastav whose telephone number is 571-272-2250. The examiner can normally be reached on 7 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 25, 2005

  
Brij B. Shrivastav  
Examiner  
Art Unit 2859

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